

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ESPADY, ET AL.,)	
)	
Petitioners)	
)	Civil Action No.
v.)	05cv10466-NG
)	
DEPARTMENT OF HOMELAND SECURITY,)	
)	
Respondent ¹)	

MOTION TO DISMISS

Respondent moves to dismiss this action pursuant to Fed. R. Civ. P. Rules 12(b)(1) and 12(b)(6) for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted.

Respectfully submitted,

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By: s/Frank Crowley
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¹ Petitioner's "Motion for Habeas Corpus" does not identify any respondent. The Court's Order dated March 16, 2005, is the sole filing of record bearing the designation of "Department of Homeland Security" as the respondent. See 28 U.S.C. § 517 (providing for the appearance of the Department of Justice "to attend to the interests of the United States in a suit pending in a court of the United States").

CERTIFICATE OF SERVICE

I hereby certify that I caused true copy of the above document to be served upon counsel for petitioners by mail on May 5, 2005.

s/Frank Crowley

FRANK CROWLEY

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